

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JENNIFER BERKELEY CARR,

Plaintiff,

-against-

16 Civ. 9957 (DAB)  
ORDER

NEW YORK CITY TRANSIT AUTHORITY,  
MARVA BROWN, and  
DAVID CHAN,

Defendants.

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DEBORAH A. BATTES, United States District Judge.

The Court is in receipt of and has reviewed Defendants' letters, dated October 11, 2018, October 15, 2018, and October 18, 2018 (Docket Nos. 41, 43, 44), and Plaintiff's letters, dated October 11, 2018 and October 23, 2018 (Docket Nos. 42, 45). Defendants propose a basis for summary judgment and Plaintiffs respond that there are genuine issues of material fact and that summary judgment is inappropriate. Plaintiffs have also informed the Court in the October 11 letter that efforts between the parties to mediate this matter have been unsuccessful.

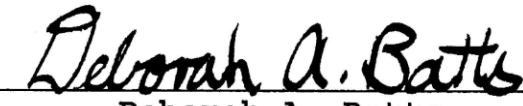
The Court is convinced that a motion for summary judgment could not be determined on the merits because there are genuine issues of material fact in at least the following areas: (1) whether Defendants discriminated against Plaintiff impermissibly on the basis of age in violation of the Age Discrimination in Employment Act ("ADEA"), (2) whether Defendants created a hostile work environment in a retaliatory manner in violation of the ADEA (3) whether Defendants discriminated against Plaintiff

impermissibly on the basis of race and gender, and/or retaliated against her, in violation of Title VII, and (4) whether Defendants discriminated against Plaintiff impermissibly on the basis of race and/or retaliated against her in violation of the Civil Rights Act of 1866.

However, should Defendants nevertheless insist - being mindful of potential sanctions under Rule 11 and Rule 56(g) of the Federal Rules of Civil Procedure - on moving forward with their motion for summary judgment, Defendants shall file and serve their moving papers within 45 days of the date of this Order. Thereafter, Plaintiff shall respond within 45 days of being served with Defendants' moving papers, and Defendants may then reply within 10 days of being served Plaintiff's response, at which time the motion will be fully submitted.

SO ORDERED.

Dated: New York, New York  
January 23, 2019

  
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Deborah A. Batts  
United States District Judge